

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

In The Matter Of:)
Eric Paul Zahn)
Laura Shana Zahn)
Debtors,) Case No. 08-61426-abf
) Chapter 13
US Bank, NA)
Movant,) Motion for Relief Filed By
) US Bank, NA
)

MOTION FOR RELIEF FROM AUTOMATIC STAY

COMES NOW, Movant, US Bank, NA, and respectfully states to the Court as follows:

1. On July 31, 2008, Debtors filed a Petition under Chapter 13 of the Bankruptcy Code. Richard Fink is the duly appointed and qualified Trustee in this case.
2. US Bank, NA is the holder of a secured claim in this proceeding by virtue of one Promissory Note dated August 24, 2000 in the original principal amount of \$48,300.00.
3. Said Note is secured by a Deed of Trust constituting a first lien on real estate owned by Debtors in Greene County, Missouri. Said property being commonly known as 419 S Monte Vista Ave, Springfield, MO 65802; more particularly described as follows:

THE SOUTH FORTY (40) FEET OF LOT TWO (2) AND THE NORTH THIRTY-FIVE (35) FEET OF LOT THREE (3), BLOCK "F", BEECHWOOD HEIGHTS FIRST ADDITION, IN THE CITY OF SPRINGFIELD, GREENE COUNTY, MISSOURI.

A copy of said Deed of Trust, which is recorded in the Greene County Recorder of Deeds Office, has been electronically attached to this document as an Exhibit and is made a part hereof by this reference.

4. The current unpaid principal balance is \$44,284.36.
5. During this Chapter 13 proceeding, the real estate has continued to be in possession of the Debtors.
6. The Chapter 13 Plan filed by the Debtors proposes to pay post-petition payments directly to US Bank, NA. Monthly post petition payments are owing and delinquent from October 1, 2008 to the present. The following are the payments that are delinquent:

3 payments @ \$480.21	\$1,440.63
2 late charges @ \$18.36	\$36.72
MFR Attorney Fees	\$600.00
MFR Attorney Costs	\$150.00
Property Inspections	\$80.00
Suspense Balance	(\$36.49)
 Total Arrearages	 \$2,270.86

7. US Bank, NA is informed and believes that the Deed of Trust, which it currently holds on the subject property, is a first lien even though Movant is not aware of any other liens on said property.

8. Good and sufficient cause exists in this case to modify the automatic stay of Section 362 for the reason that:

- (a) Post-petition payments to US Bank, NA have not been paid by the Debtors.
- (b) US Bank, NA does not have adequate protection for its interest in said real estate.

(c) The Chapter 13 plan with respect to US Bank, NA was not proposed in good faith as required by 11 U.S.C. Section 1325(a)(3) notwithstanding confirmation by the Court.

(d) If US Bank, NA is not permitted to foreclose its security interest in said real estate, it will suffer irreparable injury, loss and damage.

WHEREFORE, Movant prays that the automatic stay ordered by this Court in this proceeding be modified to permit US Bank, NA to foreclose its security interest in the above-described real property and for an order that the relief from the automatic stay is not stayed pursuant to Rule 4001 for ten (10) days.

Dated December 9, 2008.

Millsap & Singer, LLC

/s/ Cynthia M. Woolverton
Cynthia M. Woolverton, #47698,
#85468
612 Spirit Drive
St. Louis, MO 63005
Telephone: (636) 537-0110
Facsimile: (636) 537-0067
bkty@msfirm.com

Attorneys for US Bank, NA

CERTIFICATE OF SERVICE

I certify that a copy of the Proof of Perfection of the Deed of Trust and Payment History were electronically attached to this document as Exhibits and forwarded on December 9, 2008 to: Mark A. Rice, Attorney for Debtors, 1736 E. Sunshine St., Suite 219, Springfield, MO 65804; Richard Fink, Trustee, 818 Grand Blvd., Suite 800, Kansas City, MO 64106-1910.

/s/ Cynthia M. Woolverton

Electronic Mail Notice List

The following is the list of attorneys who are currently on the list to receive e-mail notices for this case.

Mark A. Rice
MRice@Networksinc.net

Manual Notice List

The following is a list of attorneys who are not on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

NONE

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SUMMARY OF EXHIBITS AND CERTIFICATE OF SERVICE

The following exhibits in reference to the Motion for Relief have been electronically attached as Exhibits and are available upon request in their entirety.

1. Proof of Perfection of Deed of Trust
2. Payment History

Respectfully submitted

Millsap & Singer, LLC

/s/ Cynthia M. Woolverton
Cynthia M. Woolverton, #47698,
#85468
612 Spirit Drive
St. Louis, MO 63005
Telephone: (636) 537-0110
Facsimile: (636) 537-0067
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Attorneys for US Bank, NA

Copy of the above served this
9 December 2008
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